

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, October 16, 2013 – 10:30 a.m. – Room 450 State Capitol

Members Present:

Sen. Mark B. Madsen, Senate Chair

Rep. Kay L. McIff, House Chair

Sen. Lyle W. Hillyard

Sen. Luz Robles

Rep. Patrice M. Arent

Rep. LaVar Christensen

Rep. Brian M. Greene

Rep. Craig Hall

Rep. Brian S. King

Rep. Lee B. Perry

Rep. Jeremy A. Peterson

Rep. V. Lowry Snow**Members Absent:**

Sen. Stephen H. Urquhart

Staff Present:

Ms. Chelsea B. Lloyd, Policy Analyst

Ms. Esther D. Chelsea-McCarty, Associate
General Counsel

Ms. Jennifer K. Christopherson, Legislative
Secretary

Ms. Kristen C. Ricks, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair McIff called the meeting to order at 10:38 a.m. Sen. Urquhart was excused from the meeting.

MOTION: Rep. Arent moved to approve the minutes of the September 18, 2013, meeting. The motion passed unanimously with Sen. Hillyard absent for the vote.

2. Annual Reports

Ms. Mary Lou Emerson, Director, Utah Substance Abuse Advisory Council, Utah Commission on Criminal and Juvenile Justice, distributed and discussed "2013 Preliminary Eleventh Annual DUI Report to the Utah Legislature." She stated that DUI and drug-related fatalities have increased in the last calendar year from 30 to 37 and that underage drinking has also increased by 40% since 2012. She responded to questions from the committee, explaining that DUI drug-related fatalities are more serious than most people think and often go undetected by law enforcement.

Ms. Carrie Mayne, Director, Workforce Research and Analysis, Utah Department of Workforce Services, distributed and presented "Utah's Second Annual Report on Intergenerational Poverty, Welfare Dependency, and the Use of Public Assistance." She explained that this annual report exists to aid the Legislature's efforts to end intergenerational poverty in Utah. Ms. Mayne explained in her presentation poverty-related data and an in-depth analysis on the commission's current studies.

3. Administrative Subpoenas – Draft Legislation

Chair McIff explained draft legislation "Administrative Subpoena Reporting Requirements" (2014FL-0333/003), which was distributed in the mailing packet. He explained that the draft legislation included changes to the reporting requirements for administrative subpoenas issued by prosecutorial or law enforcement agencies under Utah Code Section 77-22-2.5.

Mr. Richard Ziebarth, Utah Commission of Criminal and Juvenile Justice, distributed and discussed "CCJJ-Annual Administrative Subpoena Tracking Form." He explained that the new tracking document parallels the technical changes proposed in the draft legislation. He encouraged the committee to consider additional reporting elements to include in the annual report.

Sen. Madsen commented that he would like to include the following five additional reporting requirements in draft legislation to be considered during the 2014 General Session: 1) Description of exigent circumstances – why the agency is using an administrative subpoena rather than a warrant; 2) Number of days between the agency issuing the subpoena and the response; 3) Warrants, convictions, or other outcomes that resulted because of the issuance of the administrative subpoena; 4) Target of the subpoena – the Internet service provider, or other entity, the subpoena is requesting information from; and 5) Criminal offense category (sexual offense against a minor, stalking, or child kidnapping) the administrative subpoena was used to investigate.

4. Court System Modifications – Draft Legislation

Rep. Peterson distributed and discussed "Current Problems Facing Utah's Court System" and draft legislation "Court System Modification Amendments" (2014FL-0426/002). He spoke about weaknesses in the court system specifically relating to the types of crimes adjudicated in justice courts versus district courts. He explained that district courts currently handle family law issues using commissioners, a practice that does not provide accountability to the public.

Mr. Rick Schwermer, Assistant Court Administrator, Administrative Office of the Courts, distributed "History of the Utah State Courts." He explained that two commissions over the last 40 years have met for the purposes of studying and collaborating on the best court structure for the state. Mr. Schwermer specifically addressed the policy decisions made in the 1972 Utah Courts Tomorrow Commission and the Commission on Justice in the 21st Century, which met from 1988 until 1991.

Sen. Madsen commented on the need to continually study and improve the court system. He recommended that another commission be considered for reevaluating the court system structure.

Mr. Craig Hall Sr., former city attorney, encouraged the committee to study and discuss surcharges collected by justice courts.

5. Other Items / Adjourn

MOTION: Rep. Perry moved to adjourn the meeting. The motion passed unanimously with Sen. Robles absent for the vote.

Chair McIff adjourned the meeting at 12:45 p.m.